UNITED STATES DISTRICT COURT	EASTERN DISTRICT OF TEXAS
LEE ROY JACKSON,	
Plaintiff,	8 8 8
versus	§ CIVIL ACTION NO. 1:06-CV-427
JOSEPH M. SMITH, et al.,	8 8 8
Defendants.	§ §

MEMORANDUM AND ORDER

Plaintiff Lee Roy Jackson, an inmate confined at the Stiles Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, brought this civil rights action pursuant to 42 U.S.C. § 1983 against Joseph M. Smith, T. Lester, S. Gray, K. Weaver, and Sally Carrier.

On November 8, 2006, Plaintiff filed a Motion to Dismiss (#7). Plaintiff requests that the court dismiss this action without prejudice so he may file his claims in state court. Pursuant to Federal Rule of Civil Procedure 41(a), Plaintiff is entitled to dismiss his action prior to service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs.

The defendants in this action have not been served at this time. Accordingly, plaintiff's motion to dismiss should be granted.

ORDER

For the foregoing reasons, Plaintiff's motion to dismiss the action is hereby **GRANTED.**A final judgment will be entered dismissing this action pursuant to FED. R. Civ. P. 41(a).

SIGNED at Beaumont, Texas, this 8th day of December, 2006.

MARCIA A. CRONE UNITED STATES DISTRICT JUDGE

Maria a. Crono.